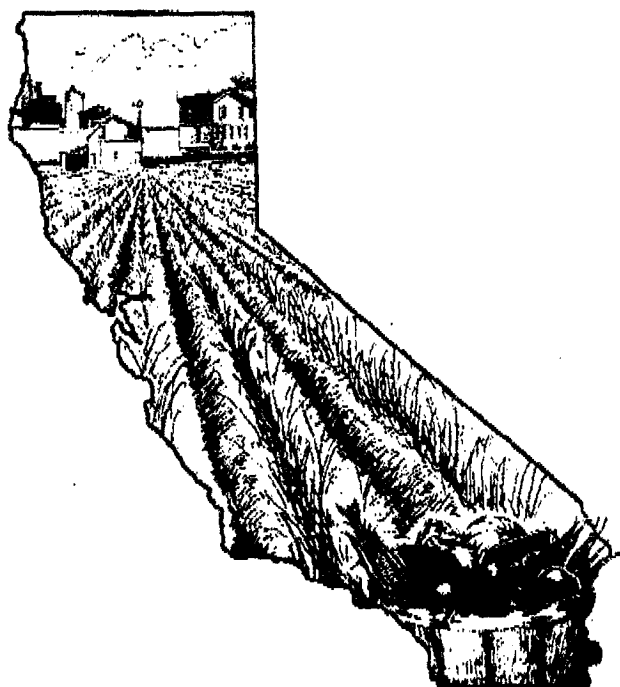


# SUPPER WILLIAMSON ACT PROGRAM

Greater agricultural land protection  
Lower property taxes and urban intrusion

September, 98



STATE OF CALIFORNIA  
California Department of Conservation  
Division of Land Resource Protection  
801 K Street, MS 13-70  
Sacramento, CA 95814  
<http://www.conserv.ca.gov>  
916-324-0850

### **SUPER WILLIAMSON ACT PROGRAM**

Senate Bill 1182 (Chapter 353/1998) was enacted in September 1998. Senate Bill 1182 added provisions to Chapter 7 of the California Government Code, otherwise known as the California Land Conservation (Williamson) Act to offer landowners enhanced tax benefits over that normally granted by the Williamson Act. The new provisions also offer special protection from local land use decisions which normally impair agricultural uses, such as school sitings, urban infrastructure assessments, and annexation by cities. In exchange for the enhance tax benefits and land use protection, landowners commit to a minimum 20-year contractual restrictions on their land to keep the land from urban development. This new program complements the 10-year protection of the Williamson Act and the permanent protection of the Agricultural Land Stewardship Program (grants for conservation easements).

The text of Senate Bill 1182:

*[The following sections authorize Open Space Subvention payments by the State to participating local governments to help offset the loss of local property tax revenue that occurs when land is enrolled in the program.]*

16140. There is hereby continuously appropriated to the Controller from the General Fund a sum sufficient to make the payments required by this chapter.

The payments provided by this chapter shall be made only when the value of each parcel of open-space land assessed under Sections 423, 423.3, 423.4, and 423.5 of the Revenue and Taxation Code is less than the value that would have resulted if the valuation of the property was made pursuant to Section 110.1 of the Revenue and Taxation Code, as though the property were not subject to an enforceable restriction in the base year.

16141. It is the purpose of this chapter to provide replacement revenues to local government by reason of the reduction of the property tax on open-space lands assessed under Sections 423, 423.3, 423.4, and 423.5 of the Revenue and Taxation Code. Notwithstanding any other provisions of this chapter, no subvention payments to a

county, city, city and county, or school district shall be made pursuant to this chapter for land enforceably restricted pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5).

16142. The Secretary of the Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section 16140, to each eligible county, city, or city and county, the following amounts for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423, 423.3, 423.4, or 423.5 of the Revenue and Taxation Code:

(a) Five dollars (\$5) for prime agricultural land, as defined in Section 51201.

(b) One dollar (\$1) for all land, other than prime agricultural land, which is devoted to open-space uses of statewide significance, as defined in Section 16143.

The amount per acre in subdivision (a) may be increased by the Secretary of the Resources Agency to a figure which would offset any savings due to a more restrictive determination by the secretary as to what land is devoted to open-space use of statewide significance.

16146. The Secretary of the Resources Agency may determine, after notice and hearing, that a local government is ineligible to receive state payments pursuant to this article by reason of its failure to comply with the provision of Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7, or with the provisions of any program which establishes an enforceable restriction upon which the assessment of land within its jurisdiction pursuant to Section 423, 423.3, 423.4, or 423.5 of the Revenue and Taxation Code is based. The fact that a local government has not complied with the

requirements of Article 10.5 (commencing with Section 65560) of Chapter 3 of Title 7 by the dates set forth in that article shall not be reason to determine that the local government is ineligible to receive state payments, if the local government has complied by July 1 of the year in which application is made. This section shall not be construed to require the disqualification of any land from assessment pursuant to Section 423, 423.3, 423.4, or 423.5 of the Revenue and Taxation Code as a consequence of any determination of ineligibility by the secretary.

*[The following Government Code Sections have been added to the Williamson Act to establish the "Super Williamson Act". At the heart of this new land conservation program is "Farmland Security Zones" within existing agricultural preserves of the Williamson Act. Within these zones, 10-year Williamson Act contracts can be converted to 20-year Farmland Security Zone contracts. Landowners under Farmland Security Zone contracts are assured a minimum 35% tax reduction and protection from land use decisions which would increase pressures on agricultural lands to convert to non agricultural uses.]*

#### Article 7. Farmland Security Zones

51296. (a) The Legislature finds and declares that it is desirable to expand options available to landowners for the preservation of agricultural land. It is therefore the intent of the Legislature in enacting this article to encourage the creation of longer term voluntary enforceable restrictions within agricultural preserves.

(b) A landowner or group of landowners may petition the board to rescind a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone.

(1) Before approving the rescission of a contract or contracts

entered into pursuant to this chapter in order to simultaneously place the land under a new farmland security zone contract, the board shall create a farmland security zone, pursuant to the requirements of Section 51230, within an existing agricultural preserve.

(2) No land shall be included in a farmland security zone unless expressly requested by the landowner. Any land located within a city's sphere of influence shall not be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere.

(3) If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the county shall place those parcels in the same farmland security zone.

(4) A contract entered into pursuant to this section shall be for an initial term of no less than 20 years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, a year shall be added automatically to the initial term unless a notice of nonrenewal is given pursuant to Section 51245. *[Section 51245 provides for the normal avenue of terminating a Williamson Act contract which is initiated by either party to the contract and requires a 10-year contract wind-down.]*

(5) Upon termination of a farmland security zone contract, the farmland security zone designation for that parcel shall simultaneously be terminated.

(c) Both of the following shall apply to land within a designated farmland security zone:

(1) The land shall be eligible for *[reduced]* property tax valuation pursuant to Section 423.4 of the Revenue and Taxation Code.

(2) Notwithstanding any other provision of law, any special tax approved by the voters for urban-related services on or after January

1, 1999, on the land or any living improvement shall be levied at a reduced rate unless the tax directly benefits the land or the living improvements.

(d) Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a city. However, this subdivision shall not apply under any of the following circumstances:

(1) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(2) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5 *[provides for the acquisition of contracted land by public agencies for public improvements, provided certain findings are made]*, except as provided in subdivision (f) or (g) of this section.

(3) If the landowner consents to the annexation.

(e) Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a special district that provides sewers, nonagricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under the contract and the landowner consents to the change of organization or reorganization.

(f) Notwithstanding Article 5 (commencing with Section 53090) of Chapter 1 of Division 2 of Title 5, a school district shall not render inapplicable a county zoning ordinance to the use of land by the school district if the land is within a designated farmland security zone.

(g) Notwithstanding any provision of law, a school district shall not acquire any land that is within a designated farmland security zone.

(h) The board shall not approve any use of land within a designated farmland security zone based on the compatible use provisions contained in subdivision (c) of Section 51238.1. *[Section 51238.1 offers relaxed provisions for the determination of allowed non agricultural, "compatible" uses of Williamson Act contracted land.]*

(i) This section shall only apply to land that is designated on the Important Farmland Series maps, prepared pursuant to Section 65570 as predominantly one or more of the following:

- (1) Prime farmland.
- (2) Farmland of statewide significance.
- (3) Unique farmland.
- (4) Farmland of local importance.

If the proposed farmland security zone is in an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominantly prime agricultural land, as defined in subdivision (c) of Section 51201.

(j) Nonrenewal of a farmland security zone contract shall be pursuant to Article 3 (commencing with Section 51240), except as otherwise provided in this article.

(k) All of the provisions of Article 6 (commencing with Section 51290) shall apply to farmland security zones created pursuant to this article except as specifically provided in this article.

(l) No state agency, as defined in Section 65934, or local agency, as defined in Section 65930, shall require any land to be placed under a farmland security zone contract as a condition of the issuance of any entitlement to use or the approval of a legislative or adjudicative act involving, but not limited to, the planning, use, or development of real property, or a change of organization or reorganization, as defined in Section 56021 or 56073. No contract shall be executed as a condition of an entitlement to use issued by an agency of the United States government.

(m) Subdivisions (d) and (e) shall not apply during the three-year period preceding the termination of a farmland security zone contract.

*[The following sections place limits on the annexation by cities of Farmland Security Zones]*

56375.4. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a city of territory that is within a farmland security zone created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Division 1. However, this subdivision shall not apply under any of the following circumstances:

(1) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(2) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in subdivision (f) or (g) of Section 51296.

(3) If the landowner consents to the annexation.

(b) The commission shall not approve or conditionally approve a

change of organization or reorganization that would result in the annexation to a special district of territory that is within a farmland security zone created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Division 1 if that special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads, unless the facilities or services benefit land uses that are allowed under the farmland security zone contract and the landowner consents to the change of organization or reorganization.

(c) This section shall not apply during the three-year period preceding the termination of a farmland security zone contract under Article 7 (commencing with Section 51296) of Chapter 7 of Division 1.

56375.45. Notwithstanding Sections 56300 and 56301, the commission shall not disapprove a change of organization or reorganization where the reason for disapproval is that the farmland security zone is excluded from the affected territory.

*[The following California Revenue and Taxation Code sections authorize enhanced tax treatment of land in Farmland Security Zones.]*

423.4. Land subject to a farmland security zone contract specified in Section 51296 of the Government Code shall be valued for assessment purposes at 65 percent of the value under Section 423 or 65 percent of the value under Section 110.1, whichever is lower.

426. Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091, 51245, or 51296 of the Government Code, and the

county assessors shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(a) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (b) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (b) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted.

(b) Where any of the conditions in subdivision (a) apply, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:

(1) Determine the value of the land pursuant to Section 110.1 of the Revenue and Taxation Code. If the land is not subject to Section 110.1 of the Revenue and Taxation Code when the restriction expires, the value shall be determined pursuant to Section 110 of the Revenue and Taxation Code as if it were free of contractual restriction. If the land will be subject to a use for which the Revenue and Taxation Code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (a).

(3) Subtract the value determined in paragraph (2) of subdivision (b) by capitalization of income from the full value determined in paragraph (1) of subdivision (b).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) of subdivision (b) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) of subdivision (b) and the value obtained in paragraph (4) of subdivision (b).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) of subdivision (b) to obtain its assessed value.

Full cash value 2

## 2. Full cash value

Under this section, which authorizes agricultural preserve contract to be cancelled after "full cash value" of

§ 51283.1. Repealed by Stats.1986, c. 607, § 4

§ 51283.1. Repealed by Stats.1988, c. 579, § 1

### Historical and Statutory Notes

Prior to repeal, § 51283.1 was amended by Stats.1985, c. 617, § 28.

§ 51283.4. Petition accompanied by proposal for specified alternative use; certificate of tentative cancellation; recodification; notice; certificate of cancellation of contract or withdrawal of tentative approval; execution

### Law Review and Journal Commentaries

New cancellation rules under the Williamson Act. Jeffrey P. Widman 22 Santa Clara L.Rev. 569 (1982).

§ 51283.5. Repealed by Stats.1989, c. 943, § 5

### Historical and Statutory Notes

The repealed section, relating to the cancellation report, was added by Stats.1985, c. 1942, § 2 and amended by Stats.1987, c. 164, § 1. See, now, § 51287.

## § 51284. Notice and hearing

No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 and shall be mailed to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled. In addition, at least 10 working days prior to the hearing, a notice of the hearing and a copy of the landowner's petition shall be mailed to the Director of Conservation. Within 30 days of the tentative cancellation of the contract, the city or county shall publish a notice of its decision, including the date, time, and place of the public hearing, a general explanation of the decision, the findings made pursuant to Section 51282, and a general description, in text or by diagram, of the land under contract, in a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city or county. In addition, within 30 days of the tentative cancellation of the contract, the city or county shall deliver a copy of the published notice of the decision, as described above, to the Director of Conservation. The publication shall be for informational purposes only, and shall create no right, standing, or duty that would otherwise not exist with regard to the cancellation proceedings.

(Amended by Stats.1983, c. 864, § 2, eff. Sept. 16, 1983; Stats.1985, c. 106, § 69.6; Stats.1989, c. 943, § 6; Stats.1991, c. 125 (A.B.720), § 1; Stats.1993, c. 89 (A.B.382), § 1.)

### Historical and Statutory Notes

1983 Amendment. Substituted "the Director of Conservation and every owner" for "each and every owner" in the second sentence.

1985 Amendment. Made nonsubstantive changes to maintain the codes.

### 1989 Legislation

The 1989 amendment deleted "within the same agricultural preserve and" preceding "within one mile" in the second sentence and added the last three sentences.

Additions or changes indicated by underline; deletions by asterisks \*

affected land is determined and other conditions are met, term "full cash value" does not have same meaning as that term as used in Rev. & T.Code § 110.1. 89 Op.Atty.Gen. 70, 4-22-86.

The 1983 amendment, in the third sentence, inserted "at least 10 working days prior to the hearing, a" preceding "notice".

### 1985 Legislation

Governor's Reorganization Plan No. 2 of 1985, amending this section, did not take effect. See Government

## § 51285. Protest

### Law Review and Journal Commentaries

New cancellation rules under the Williamson Act. Jeffrey P. Widman 22 Santa Clara L.Rev. 569 (1982).

## § 51286. Review; limitation of actions

Any action or proceeding which, on the grounds of alleged noncompliance with the requirements of this chapter, seeks to attack, review, set aside, void, or annul a decision of a board of supervisors or a city council to cancel a contract shall be brought pursuant to \* \* \* Section 10945 of the Code of Civil Procedure.

The action or proceeding shall be commenced within 180 days from the council or board order acting on a petition for cancellation filed under this chapter.

(Amended by Stats.1985, c. 106, § 70.)

### Historical and Statutory Notes

1986 Amendment. Made nonsubstantive changes to maintain the codes.

### Law Review and Journal Commentaries

New cancellation rules under the Williamson Act. Jeffrey P. Widman 22 Santa Clara L.Rev. 569 (1982).

### Notes of Decisions

#### Limitations 1

#### 1. Limitations

Three-year limitations period for liability created by statute other than penalty of forfeiture, not 180-day period.

od for challenges to county board of supervisors' decision to cancel Williamson Act contract, applied to state's action challenging county assessor's actions in establishing cancellation value of Williamson Act contract. People ex rel. Dept. of Conservation v. Triplett (Diable-Grande Ltd. Partnership (App. 5 Dist. 1996) 35 Cal.Rptr.2d 310, 43 Cal.App.4th 233, review denied.

## § 51287. Recovery of costs under this article; fees

The city or county may impose a fee pursuant to Chapter 8 (commencing with Section 65016) \* \* \* of Division \* \* \* 1 of Title 7 for recovery of costs under this article. The fee shall not exceed an amount necessary to recover the reasonable cost of services provided by the city or county under this article. (Added by Stats.1989, c. 943, § 7. Amended by Stats.1996, c. 686 (S.B.660), § 2, eff. Oct. 10, 1996, operative Jan. 1, 1996.)

### Article 6

## EMINENT DOMAIN OR OTHER ACQUISITION

#### Section

51290.5. Public improvement.

51291. Public agency and person defined; notice of intent to consider land in agricultural preserve; compliance; notice of acquisition and proposed changes in the improvement.

51292. Findings.

#### Section

51293. Applicability of section relating to necessary findings.

51293.1. Agricultural preserve lands; compatible use.

Additions or changes indicated by underline; deletions by asterisks \*

Section  
51294. Enforcement of section relating to factors in location; mandamus; admissibility of evidence.

Section  
51294.1. Proposed water transmission facilities; request for approval of location or acquisition.  
51295. Nullification of contract; reenrollment in contract or enforceable deed restriction.

#### § 51290.5. Public improvement

As used in this chapter "public improvement" means facilities or interests in real property owned by a public agency or person as defined in subdivision (a) of Section 51291.

(Added by Stats.1994, c. 1158 (S.B.1534), § 1.)

#### § 51291. Public agency and person defined; notice of intent to consider land in agricultural preserve; compliance; notice of acquisition and proposed changes in the improvement

(a) As used in this section, Section 51292, and Section 51295 "public agency" means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and "person" means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the preserve of the intention to consider the location of a public improvement within the preserve. In accordance with Section 51290, the notice shall include an explanation of the preliminary consideration of Section 51292, and give a general description, in text or by diagram, of the agricultural preserve land proposed for acquisition, and a copy of any applicable contract created under this chapter. The Director of Conservation shall forward to the Director of Food and Agriculture a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter the Director of Conservation and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to nonagricultural uses, and shall consult with, and incorporate the comments of, the Director of Food and Agriculture on any other matters related to agricultural operations. Failure of any public agency or person to comply with the requirements of this section shall not invalidate any action by the agency or person to locate a public improvement within an agricultural preserve. However, the failure by any person or any public agency other than a state agency to comply with the requirements of this section shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, water, or communication utility facilities within an agricultural preserve if that preserve was established after submission of the location of those facilities to the city or county for review or approval.

(c) When land in an agricultural preserve is acquired by a public entity, within 10 working days the public entity shall notify the Director of Conservation. The notice shall include a general explanation of the decision, and the findings made pursuant to Section 51292. If different from that previously provided pursuant to subdivision (b), the notice shall also include a general description, in text or by diagram, of the agricultural preserve land acquired, and a copy of any applicable contract created under this chapter.

(d) If, after giving the notice required under subdivisions (b) and (c), and before the project is completed within an agricultural preserve, the public agency or person proposes any significant change in the public improvement, it shall give notice of the changes to the Director of Conservation and the local governing body responsible for the administration of the preserve. Within 30 days thereafter, the Director of Conservation and the local governing body may forward to the public agency or person their comments with respect to the effect of the change to the public improvement on the land within the preserve and the compliance of the changed public improvements with this article. Those comments shall be considered by the public agency or person, if available within the time limits set by this subdivision.

(e) If the notices and findings required by this section and Section 51292 are given and contained within documents prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) those documents may be used to meet the

Additions or changes indicated by underline; deletions by asterisks \* \* \*

notification and findings requirements of this section and Section 51292, as long as they are provided no later than the times set forth in this section.

Any action or proceeding regarding notices or findings required by this article filed by the Director of Conservation or the local governing body administering the agricultural preserve shall be governed by Section 51294.

(Amended by Stats.1994, c. 851, § 4; Stats.1994, c. 1158 (S.B.1534), § 2.)

#### Historical and Statutory Notes

1996 Legislation  
Governor's Reorganization Plan No. 2 of 1996, amending this section, did not take effect. See Government Code § 12000.5 and Senate Resolution No. 30 of the 1996-97 Regular Session, adopted July 20, 1996

#### § 51292. Findings

\* \* \* No public agency or person shall locate a public improvement within an agricultural preserve unless the following findings are made:

(a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

(b) \* \* \* If the land is prime agricultural land covered under a contract pursuant to this chapter for any public improvement, \* \* \* that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

(Amended by Stats.1994, c. 1158 (S.B.1534), § 3.)

#### § 51293. Applicability of section relating to necessary findings

Section 51292 shall not apply to:

(a) The location or construction of improvements where the board or council administering the agricultural preserve approves or agrees to the location thereof, except when the acquiring agency and administering agency are the same entity.

(b) The acquisition of easements within a preserve by the board or council administering the preserve.

(c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.

(d) The acquisition of either (1) temporary construction easements for public utility improvements, or (2) an interest in real property for underground public utility improvements. This subdivision shall apply only where the surface of the land subject to the acquisition is returned to the condition and use that immediately preceded the construction of the public improvement, and when the construction of the public utility improvement will not significantly impair agricultural use of the affected contracted parcel or parcels.

(e) The location or construction of the following types of improvements, which are hereby determined to be compatible with or to enhance land within an agricultural preserve:

(1) Flood control works, including channel rectification and alteration.

(2) Public works required for fish and wildlife enhancement and preservation.

(3) Improvements for the primary benefit of the lands within the preserve.

(4) Improvements for which the site or route has been specified by the Legislature in \* \* \* a manner \* \* \* that makes it impossible to avoid the acquisition of land under contract.

(g) All state highways on routes as described in Sections 301 to 622, inclusive, of the Streets and Highways Code, as those sections read on October 1, 1965.

(h) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12334 of the Water Code, except facilities under paragraph (6) of \* \* \* subdivision (d) of that section.

(i) Land upon which condemnation proceedings have been commenced prior to October 1, 1965.

(j) The acquisition of a fee interest or conservation easement for a term of at least 10 years, in order to restrict the land to agricultural or open space uses as defined by subdivisions (3) and (c) of Section 51201.

(Amended by Stats.1994, c. 1158 (S.B.1534), § 4.)

Additions or changes indicated by underline; deletions by asterisks \* \* \*

§ 51293.1. Agricultural preserve lands: compatible use

Any public agency or person requiring land in an agricultural preserve for a use which has been determined by a city or county to be a "compatible use" pursuant to subdivision (e) of Section 51291 in that agricultural preserve shall not be excused from the provisions of subdivision (b) of Section 51291 if the agricultural preserve was established before the location of the improvement of a public utility was submitted to the city, county, or Public Utilities Commission for agreement or approval and that compatible use shall not come within the provisions of Section 51293 unless the location of the improvement is approved or agreed to pursuant to subdivision (a) of Section 51293 or the compatible use is listed in Section 51293.

(Amended by Stats.1983, c. 101, § 71.)

§ 51294. Enforcement of section relating to factors in location; mandamus; admissibility of evidence

Section 51292 shall be enforceable only by mandamus proceedings by the local governing body administering the agricultural preserve or the Director of Conservation. However, as applied to condemnors whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51292 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against the landowner.

(Amended by Stats.1984, c. 851, § 5.)

Historical and Statutory Notes

1984 Amendment. Substituted "Conservation" for "Food and Agriculture" in the first sentence; and substituted "the landowner" for "him" at the end of the second sentence.

Code § 12080.5 and Senate Resolution No. 30 of the 1985-86 Regular Session, adopted July 21, 1985.

1986 Legislation. Governor's Reorganization Plan No. 2 of 1986, amending this section, did not take effect. See Government

§ 51294.1. Proposed water transmission facilities; request for approval of location or acquisition

After 90 days have elapsed following its action, pursuant to subdivision (b) of Section 51291, advising the Director of Conservation, and the local governing body of a county or city administering an agricultural preserve of its intention to consider the location of a public improvement within such agricultural preserve, a public agency proposing to acquire land within an agricultural preserve for water transmission facilities which will extend into more than one county, may file the proposed route of the facilities with each county or city administering an agricultural preserve into which the facilities will extend and request each county or city to approve or agree to the location of the facilities or the acquisition of the land therefor. Upon " " approval or agreement, the provisions of Section 51292 shall not apply to the location of the proposed water transmission facility or the acquisition of land therefor in any county or city which has approved or agreed to the location or acquisition.

(Amended by Stats.1984, c. 351, § 3.)

Historical and Statutory Notes

1986 Legislation. Governor's Reorganization Plan No. 2 of 1986, amending this section, did not take effect. See Government

Code § 12080.5 and Senate Resolution No. 30 of the 1985-86 Regular Session, adopted July 21, 1985.

§ 51295. Nullification of contract; renewal in contract or enforceable deed restriction

When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to a contract is filed or when that land is acquired in lieu of eminent domain for a public improvement by a public agency or person or whenever there is any action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government, the contract shall be deemed null and void as to the land actually being condemned or so acquired as of the date the action is filed and for the purposes of establishing the value of the land, the contract shall be deemed never to have existed.

Upon the termination of the proceeding, the contract shall be null and void for all land actually taken or acquired.

When an action to condemn or acquire less than all of a parcel of land subject to a contract is commenced, the contract shall be deemed null and void as to the land actually condemned or acquired and

Additions or changes indicated by underline; deletions by asterisks \* \* \*

shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the contract.

When an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof of land subject to a contract is commenced, the contract shall be deemed null and void as to that interest and for the purpose of establishing the value of that interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the contract will be adversely affected, in which case the value of that damage shall be computed without regard to the contract.

The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken for a public improvement, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be canceled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article 5 (commencing with Section 51290).

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the contract is continued on the remaining portion or interest in the land may satisfy the requirements of subdivision (a) of Section 51292.

If, after acquisition, the acquiring public agency determines that it will not for any reason actually locate on that land or any part thereof, the public improvement for which the land was acquired, before returning the land to private ownership the public agency shall give written notice to the Director of Conservation and the local governing body responsible for the administration of the preserve and the land shall be reacquired in a contract, or encumbered by an enforceable deed restriction with terms at least as restrictive as those provided by this chapter. The duration of the restriction shall be determined by subtracting the length of time the land was held by the acquiring public agency or person from the number of years that remained on the original contract at the time of acquisition.

(Amended by Stats.1984, c. 415, § 1; Stats.1994, c. 1158 (S.B.1534), § 5.)

Law Review and Journal Commentaries

New cancellation rules under the Williamson Act. Jeff Gray P. Widman 22 Santa Clara L.Rev. 529 (1982).

Article 7

DEMONSTRATION LAND PRESERVATION PROJECT (REPEALED)

Article 7, added by Stats.1984, c. 803, § 1, was repealed under the provisions of § 51293, operative Jan. 1, 1990.

§§ 51296 to 51297.5. Repealed by Stats.1984, c. 803, § 1, operative Jan. 1, 1990

Historical and Statutory Notes

The repealed sections, added by Stats.1984, c. 803, § 1 related to agricultural land trusts in Marin County. Section 51296, which provided for the repeal of the article, further provided that Marin County retains the authority to enforce the provisions of any agreement entered into pursuant to § 51297, which read:

"The County of Marin may enter into agreements and make payments to a properly constituted agricultural land

trust from any grant made to the county by the conservancy to carry out the purposes of this article. Before entering into an agreement, the board of supervisors shall conduct a public hearing on the issue after giving appropriate public notice to landowners, taxpayers, local agencies, and other interested parties."

Chapter 3

CAPITAL INVESTMENT INCENTIVE PROGRAM

Section

51298. Capital investment incentive program; legislative intent; manufacturing facilities; definitions.

Chapter 3 was added by Stats.1997, c. 616 (S.B.566), § 2.

Additions or changes indicated by underline; deletions by asterisks \* \* \*